

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EVERYTHING YOGURT BRANDS, LLC, et al., :  
Plaintiffs, :  
-v- :  
FRANCESCO BIANCO, et al., :  
Defendants. :  
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LEWIS J. LIMAN, United States District Judge:

Plaintiffs move for default judgment as to several defendants in this action. Dkt. No. 64. The motion is denied for non-compliance with Local Rule 55.1, which states that:

A party applying for entry of default under Fed. R. Civ. P. 55(a) shall file:

- (a) a request for a Clerk's Certificate of Default; and
- (b) an affidavit demonstrating that:

- (1) the party against whom a notation of default is sought is not an infant, in the military, or an incompetent person;
- (2) the party has failed to plead or otherwise defend the action; and
- (3) the pleading to which no response has been made was properly served.

A proposed Clerk's Certificate of Default form must be attached to the affidavit.

S.D.N.Y. Local Rule 55.1. In what is labeled their "motion for default judgment," Dkt. No. 64, Plaintiffs instead include their request for a Clerk's Certificate of Default. However, as Rule 55.1 makes clear, the request for a Clerk's Certificate of Default must be filed separately and before a motion for default judgment. Accordingly, Plaintiff's motion is DENIED without prejudice to re-filing once they have properly obtained a Certificate of Default from the Clerk of Court.

SO ORDERED.

Dated: April 2, 2024  
New York, New York

  
LEWIS J. LIMAN  
United States District Judge